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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,949	12/15/2003	Nicholas John Walker	MAE-MT-1	3712
7590 Michael A. Ervin 8202 Talbot Cove Austin, TX 78746		12/26/2007	EXAMINER MADAMBA, GLENFORD J	
			ART UNIT 2151	PAPER NUMBER
			MAIL DATE 12/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

m/v

Office Action Summary	Application No. 10/735,949	Applicant(s) WALKER, NICHOLAS JOHN	
	Examiner Glenford Madamba	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Remarks and Amendments

1. This action is in response to remarks and claim amendments filed by Applicant's representative on September 6, 2007.
2. Applicant's remarks and claim amendments filed on September 6, 2007 have been considered but are now moot in light of the new grounds of rejection provided with this action.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pogue, U.S. Patent US 6,112,240 in view of Kavanaugh, U.S. Patent Publication US 2003/0005046 A1.

As per claims 16 and 20, Pogue in view of Kavanaugh discloses a method of tracking, correlating, and analyzing e-mail and internet activities between an internet visitor and an internet website by use of a separate service provider website and it's communication software, the method comprising the steps of:

a) adding a service provider HTML tag that includes said internet visitor's e-mail address to an e-mail to create a tracker-enabled document (e.g. webpage from a website) [Abstract] [Fig. 4] [col 2, L12-25];

b) providing said tracker-enabled e-mail from said internet website or said service provider website to said visitor on world wide web [Figs. 3-5]; and

c) when said e-mail is opened or the focus of a browser e-mail is set (102) [Figs 1a-b, 2 and 5-7] ;

d) using said service provider website communication software to:

I. capture the e-mail address of said internet visitor (e.g., Customer Email Address 2030) [Fig. 2];

II. store said e-mail address in a cookie (i.e., Cookie ID 2022) [Fig. 2];

III. add a unique identifier to said cookie (i.e., Customer Number/Name/Address Information) [Fig. 2];

IV. send said cookie back to internet visitor browser (i.e., Assign Cookie ID to User/Visitor Computer 506 / 514) [Fig. 5]; and

V. embed said cookie in rendering component of internet visitor's web browser (i.e., URL with embedded email number provided in solicitation email provided to user, steps 102-106 and/or steps 150-156) [Fig 1a].

While Pogue discloses substantial features of the invention, such as a tracker tag (IMG tag) and program for obtaining 'client information' (e.g., browser type/version, client computer type, OS of computer), storing the information in a database, and transmitting a cookie to the browser, the additional recited features of method further comprising steps (c) and (d) is expressly disclosed by Kavanugh in a related endeavor.

Kavanugh discloses as his invention a system and method for managing marketing applications for a website. The website has webpages that perform e-commerce transaction by offering products to users and customers of the website. The website is coupled to a database having database tables. The database tables include information in performing marketing processes and applications. Further, a cookie identification and a customer number may be received/generated that identifies the user to the website. The Cookie ID and Customer Number are used within the Database Tables along with the product numbers and other information to display products/information to the user in a tailored manner, to generate upsell products for display, and to deliver abandoned cart emails to the user. Further, the user may click on an embedded URL to provide unique information referenced in the database table [Abstract] [0007-0012].

Specifically, Kavanaugh expressly discloses the additionally recited features of c) when said e-mail is opened or the focus of a browser e-mail is set (102) [Figs 1a-b, 2 and 5-7];

d) using said service provider website communication software to:

I. capture the e-mail address of said internet visitor (e.g., Customer Email Address 2030) [Fig. 2];

II. store said e-mail address in a cookie (i.e., Cookie ID 2022) [Fig. 2];

III. add a unique identifier to said cookie (i.e., Customer Number/Name/Address Information) [Fig. 2];

IV. send said cookie back to internet visitor browser (i.e., Assign Cookie ID to User/Visitor Computer 506 / 514) [Fig. 5]; and

V. embed said cookie in rendering component of internet visitor's web browser (i.e., URL with embedded email number provided in solicitation email provided to user, steps 102-106 and/or steps 150-156) [Fig 1a].

It would thus be obvious to one of ordinary skill in the art at the time of the invention to combine and/or modify Pogue's invention with the above said additional features, as disclosed by Kavanaugh, for the motivation managing marketing applications and processes for a web-based business. The web-based business may use a website or webpages to conduct business transactions for products and services to users and customers over a network (e.g., the Internet) [Abstract] [0003] [0007].

Claim 20 is likewise rejected on the same basis as claim 16 since they recite identical features and are distinguished only by statutory category.

As per claims 17 and 21, Pogue in view of Kavanaugh and in further view of Lorenz discloses a method of tracking, correlating, and analyzing e-mail and internet activities between an internet visitor and an internet website by use of a separate service provider website and it's communication software, the method comprising the steps of:

- a) adding a JavaScript (i.e., Java Applet 702) [Fig. 7] or HTML tag (i.e., HTML IMG tag) [col 4, L25] with a service provider provided data collection script to a web page to create a tracker-enabled web page (e.g. webpage from a website) [Abstract] [Fig. 4] [col 2, L12-25];

- b) providing said tracker-enabled web page from said internet website to said internet visitor when a request is received from said visitor's browser [col 3, L66 – col 4, L60] [Figs. 3-5];

- c) wherein when said web page is opened in browser of said internet visitor said data collection script initiates a session that gathers information about the usage of each tracker enabled web page and sends that information to said service provider website [col 3, L66 – col 4, L60] [Figs. 3-5]; and

d) wherein said tracker-enabled document contains an on-line form for said visitor to capture the e-mail address of said visitor ; and when said visitor e-mail address is captured, using service provider provided data collection script to;

e) send e-mail address to said service provider website;

f) wherein said service provider website communication software:

I. stores obtained visitor information in a database on a service provider server;

II. stores said e-mail address in a cookie;

III. adds a unique identifier to said cookie;

IV. adds session information to said cookie;

V. sends said cookie back to internet visitor browser [Pogue: col 7, L4-22];

and

VI. internet visitor's browser embeds said cookie in rendering component of visitor's web browser [Pogue: col 7, L4-22];.

While Pogue discloses substantial features of the invention, such as a tracker tag (IMG tag) and program for obtaining 'client information' (e.g., browser type/version, client computer type, OS of computer), storing the information in a database, and transmitting a cookie to the browser, the additional recited features of method further

comprising steps (e) and (f, I-IV) is expressly disclosed by Kavanugh in a related endeavor.

Kavanugh discloses as his invention a system and method for managing marketing applications for a website. The website has webpages that perform e-commerce transaction by offering products to users and customers of the website. The website is coupled to a database having database tables. The database tables include information in performing marketing processes and applications. Further, a cookie identification and a customer number may be received/generated that identifies the user to the website. The Cookie ID and Customer Number are used within the Database Tables along with the product numbers and other information to display products/information to the user in a tailored manner, to generate upsell products for display; and to deliver abandoned cart emails to the user. Further, the user may click on an embedded URL to provide unique information referenced in the database table [Abstract] [0007-0012].

Specifically, Kavanugh expressly discloses the additionally recited features of the method wherein when said visitor e-mail address is captured, using service provider provided data collection script to;

d) wherein said tracker-enabled document contains an on-line form for said visitor to capture the e-mail address of said visitor; and when said visitor e-mail address is captured, using service provider provided data collection script to [0054];

e) send e-mail address to said service provider website (e.g., “populating” selected variable data elements on the website”, such as Customer Number/Address/Email Address/Preferences) [0040-0041] [Fig. 2];

f) wherein said service provider website communication software:

I. stores obtained visitor information in a database on a service provider server (i.e., ‘Enter Cookie ID, email address and customer number into *Customer Databas Table*’ 518) [Figure 5];

II. stores said e-mail address in a cookie (e.g., Customer Database Table Elements) [Figs 2 or 6];

III. adds a unique identifier to said cookie (e.g., Customer Database Table Elements) [Figs 2 or 6]; and

IV. adds session information to said cookie (e.g., “Last Time of Page View” field 6062) [Fig. 6].

It would thus be obvious to one of ordinary skill in the art at the time of the invention to combine and/or modify Pogue’s invention with the above said additional features, as disclosed by Kavanaugh, for the motivation managing marketing applications and processes for a web-based business. The web-based business may use a website or webpages to conduct business transactions for products and services to users and customers over a network (e.g., the Internet) [Abstract] [0003] [0007].

Claim 21 is likewise rejected on the same basis as claim 17 since they recite identical features and are distinguished only by statutory category.

As per claims 18 and 19, Pogue in view of Kavanaugh (and in further view of Lorenz) discloses the method of tracking, correlating, and analyzing e-mail and internet activities between an internet visitor and an internet website by use of a separate service provider website and its communication software of claim 17, wherein said step of capturing the e-mail address of said visitor comprises: providing an on-line form for said visitor to enter an email address in a required field.

While Pogue discloses substantial features of the invention, such as a tracker tag (IMG tag) and program for obtaining 'client information' (e.g., browser type/version, client computer type, OS of computer), storing the information in a database, and transmitting a cookie to the browser, the additional recited feature of method wherein said step of capturing the e-mail address of said visitor comprises providing an on-line form for said visitor to enter an email address in a required field is expressly disclosed by Kavanaugh in a related endeavor.

Kavanaugh discloses as his invention a system and method for managing marketing applications for a website. The website has webpages that perform e-commerce transaction by offering products to users and customers of the website.

The website is coupled to a database having database tables. The database tables include information in performing marketing processes and applications. Further, a cookie identification and a customer number may be received/generated that identifies the user to the website. The Cookie ID and Customer Number are used within the Database Tables along with the product numbers and other information to display products/information to the user in a tailored manner, to generate upsell products for display, and to deliver abandoned cart emails to the user. Further, the user may click on an embedded URL to provide unique information referenced in the database table [Abstract] [0007-0012].

Specifically, Kavanaugh expressly discloses the additionally recited features of the method wherein said step of capturing the e-mail address of said visitor comprises: providing an on-line form for said visitor to enter an email address in a required field [0054].

It would thus be obvious to one of ordinary skill in the art at the time of the invention to combine and/or modify Pogue's invention with the above said additional features, as disclosed by Kavanaugh, for the motivation managing marketing applications and processes for a web-based business. The web-based business may use a website or webpages to conduct business transactions for products and services to users and customers over a network (e.g., the Internet) [Abstract] [0003] [0007].

Claim 19 is likewise rejected on the same basis as claim 18 since they recite the identical feature of entering selected 'customer information' in an on-line form.

As per claims 22 and 23, Pogue (in view of Kavanaugh) discloses the software program product of claim 20 wherein said program of computer readable instructions executable by the computer system to perform the method steps further comprise: providing a report on said visitor's activities when requested by a web site owner (Netscape) [Figs 6 & 7] [col 4 L45-67].

Claim 23 is likewise rejected on the same basis as claim 22 since they recite identical features and are distinguished only by statutory category.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.06(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenford Madamba whose telephone number is 571-272-7989. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Wallace Martin can be reached on 571-272-3440. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number:
10/735,949
Art Unit: 2151

Page 14

Glenford Madamba
Examiner
Art Unit 2151



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SUPERVISORY PATENT EXAM.